



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

Robert B. Long, Esquire  
Long, Parker & Warren, P.A.  
P.O. Box 7216  
Asheboro, N.C. 28802

May 14, 1999

RE: MUR 4798  
Buncombe County Republican Party, and  
Gary S. McClure, as treasurer

Dear Mr. Long:

On May 11, 1999, the Federal Election Commission accepted the signed conciliation agreement submitted on your above-referenced clients' behalf in settlement of violations of 2 U.S.C. §§ 441a(f), 434(b) and 11 C.F.R. §§ 102.5(a) and 106.5(a), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations. Accordingly, the file has been closed.


The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt. Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Robert B. Long, Esq.

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Enclosed you will find a copy of a fully executed conciliation agreement for your files. Please note that the first installment of the civil penalty is due within 30 days of the effective date of the conciliation agreement. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

  
Xavier K. McDonnell  
Attorney

Enclosure:

Conciliation Agreement

99.04.391.4762

# **BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of	)	
	)	
Buncombe County Republican Party	)	MUR 4798
Gary S. McClure, as treasurer	)	

## **CONCILIATION AGREEMENT**

This matter was initiated by Federal Election Commission ("Commission") based upon information ascertained in the normal course of exercising its supervisory duties. *See* 2 U.S.C. § 437g(a)(2). The Commission found reason to believe that the Buncombe County Republican Party and its treasurer ("Buncombe Committee" or "Respondents") violated 2 U.S.C. §§ 441a(f) and 434(b) and 11 C.F.R. §§ 102.5(a) and 106.5(a).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. The Buncombe County Republican Party is a political committee within the meaning of 2 U.S.C. § 431(4)(C) that is registered with the Commission.

2. During 1996, Martin Reidinger was the treasurer of the Buncombe Committee.

Since 1997, Gary S. McClure has been treasurer of the Buncombe Committee.

3. A state or local party organization that finances activity in connection with both federal and non-federal elections is required to either establish a separate federal account from which all disbursements, contributions, expenditures and transfers made in connection with any federal election shall be made, or establish a political committee which shall receive only contributions subject to the limitations and prohibitions of the Federal Election Campaign Act of 1971, as amended ("the Act") regardless of whether such funds are used in connection with federal or non-federal elections. 11 C.F.R. § 102.5(a)(1). The Act provides that no person or multicandidate committee shall make contributions to a state or local party committee's federal account in any calendar year which in the aggregate exceed \$5,000, and prohibits the state or local committee from knowingly accepting such contributions. 2 U.S.C. § 441a(a) and (f). See also 11 C.F.R. § 110.3(b)(3).

4. North Carolina State law does not impose any limitation on the amount of funds that party committees may accept. *See* General Statutes of North Carolina §§ 163-278.

5. The Randolph County Republican Executive Committee ("Randolph Committee") is a party committee that is not registered with the Commission. The Randolph Committee accepts funds in excess of the limitations imposed by the Act at Section 441a(a).

6. Just prior to the 1996 elections, the Randolph Committee sought to purchase communications that would aid Republican candidates, particularly certain candidates running for election in Buncombe County. To avoid questions that would be raised by having the Randolph Committee identified as the sponsor of these communications, the Randolph

Committee decided to transfer the funds to the Buncombe County Committee so that the latter would be identified as the sponsor.

7. To carry out the plan explained in paragraph 6 above, the Randolph Committee issued a check totaling \$13,925 to the Buncombe Committee on October 23, 1996. The funds were used to purchase a mailing. Although not relevant to the violation of accepting impermissible funds into a federal account, the mailing at issue had a federal component. Specifically, one page of the mailing contained the picture of and references to U.S. Representative Charles Taylor (N.C.), along with local candidates and identified them as "The Republican Team for Buncombe County." Another page of the mailing, a letter from Representative Taylor in support of a local candidate, contained generic party building and get-out-the vote messages, e.g., "we must work hard in the next few days to make sure Republicans turn out to vote" and a statement by Rep. Taylor that a local candidate "stands for the same kind of traditional Republican principles—conservative principles—that I try to represent in the U.S. Congress." The mailing stated that it was paid for by the Buncombe Committee.

8. The \$13,925 transfer was deposited into the Buncombe Committee's federal account.

9. The Buncombe Committee maintained separate federal and nonfederal accounts from July of 1997 though January of 1998. Party committees that maintain separate federal and nonfederal accounts are required by 11 C.F.R. § 106.5(a) to allocate expenditures and disbursements. The Buncombe Committee did not allocate any of the expenditures and disbursements it made between July of 1997 and January of 1998.

10. The Act requires political committees to report amounts and dates of all transfers, contributions and disbursements in excess of \$200. 2 U.S.C. § 434(b). During 1996-98, the Buncombe Committee made the following reporting errors: (i) it reported the receipt date for the

\$13,925 transfer from the Randolph Committee as November 25, 1996 when it was actually received just before election day on October 25, 1996 and (ii) it made a \$9,500 transfer from its federal account to its nonfederal account on January 21, 1998, but reported it as a \$8,925 transfer on December 30, 1997.

V. 1. The Buncombe Committee accepted impermissible funds, totaling \$13,925, in violation of 2 U.S.C. § 441a(f) and 11 C.F.R. § 102.5(a).

2. The Buncombe Committee mis-reported the dates and amounts of transfers and disbursements, in violation of 2 U.S.C. § 434(b).

3. The Buncombe Committee failed to allocate administrative expenses and other allocable disbursements made from July of 1997 through January of 1998, in violation of 11 C.F.R. § 106.5(a).

VI. 1. The Buncombe Committee will pay a civil penalty to the Federal Election Commission in the amount of Six Thousand Dollars (\$6,000) pursuant to 2 U.S.C. § 437g(a)(5)(A), such penalty to be paid as follows:

- a. an initial payment of three thousand (\$3,000) will be paid within thirty (30) days;
- b. the remaining three thousand (\$3,000) will be paid within sixty (60) days;
- c. in the event that any installment payment is not received by the Commission when it becomes due, the Commission may, at its discretion, accelerate the remaining payments and cause the entire amount to become due upon ten (10) days written notice to the Respondents. Failure by the Commission to accelerate the payments with regard to any overdue installment shall not be construed as a waiver of its right to do so with regard to future installments.

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2. Respondents will take steps to ensure that they do not deposit any impermissible funds in any account deemed to be their federal account and to ensure that they comply with 11 C.F.R. § 102.5.

3. Respondents will amend their reports to correct the violations referenced above in section IV, paragraphs 9 and 10.

4. Respondents have cooperated fully with the Commission in this matter.

VII. *The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.*

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than 60 days from the date this agreement becomes effective to comply with and implement the requirement contained in this agreement and to so notify the Commission.


X. *This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral,*

made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble  
General Counsel

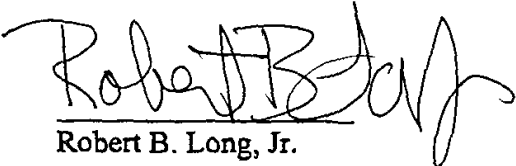
BY:

  
Lois G. Ierner  
Associate General Counsel

Date

5/13/99

FOR THE RESPONDENTS

  
Robert B. Long, Jr.  
Attorney for the Respondents

Date

5/13/99